

**U.S. District Court
Western District of Oklahoma[LIVE] (Oklahoma City)
CRIMINAL DOCKET FOR CASE #: 5:15-mj-00257-STE-1
Internal Use Only**

Case title: United States of America v. Nichols
Other court case number: CR-15-227-L USDC-Northern
Dist of TX/Dallas Division

Date Filed: 07/01/2015

Certified Copy

Assigned to: Magistrate Judge Shon T.
Erwin



8:20 am, Jul 06, 2015
Carmelita Reeder Shinn, Clerk

Defendant (1)

Benjamin Earnest Nichols

represented by **Teresa K Brown**
Federal Public Defender-OKC
215 Dean A McGee Ave
Suite 109
Oklahoma City, OK 73102
405-609-5930
Fax: 405-609-5932
Email: Teresa_Brown@FD.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Public Defender

Pending Counts

None

Disposition

Highest Offense Level (Opening)

None

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints


None

Disposition

Plaintiff

United States of America

represented by **Robert D Gifford , II**
US Attorney's Office-OKC
210 W Park Ave
Suite 400
Oklahoma City, OK 73102
405-553-8700
Fax: 405-553-8888
Email: Robert.D.Gifford@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

Date Filed	#	Select all / clear	Docket Text
07/01/2015			Arrest of Benjamin Earnest Nichols in West Dist of Okla. (sm) (Entered: 07/02/2015)
07/01/2015	<u>1</u>	<input type="checkbox"/>	RULE 5(c)(3) Documents Received as to Benjamin Earnest Nichols - Indictment (sm) (Entered: 07/02/2015)
07/02/2015	 <u>2</u>	<input type="checkbox"/>	** SEALED DOCUMENT ** CJA 23 Financial Affidavit by Benjamin Earnest Nichols (sm) (Entered: 07/06/2015)
07/02/2015	<u>3</u>	<input type="checkbox"/>	MINUTE ENTRY for proceedings held before Magistrate Judge Shon T. Erwin: Initial Appearance in Rule 5(c)(3) as to Benjamin Earnest Nichols held on 7/2/2015. Attorney Appointment Hearing as to Benjamin Earnest Nichols held on 7/2/2015. Def waives identity hearing. Govt recommends Def be released on \$10,000 unsecured bond w/conditions. Def to report for further proceedings in Northern District of TX/Dallas Division before Mag. Judge Paul Stickney, Courtroom #1620, on Thursday, 7/9/15 @ 2:00 p.m. (sm) (Entered: 07/06/2015)
07/02/2015	<u>4</u>	<input type="checkbox"/>	ORDER APPOINTING FEDERAL PUBLIC DEFENDER Teresa Brown as to Benjamin Earnest Nichols. Signed by Magistrate Judge Shon T. Erwin on 07/02/2015. (sm) (Entered: 07/06/2015)
07/02/2015	<u>5</u>	<input type="checkbox"/>	ORDER REQUIRING DEFENDANT TO APPEAR IN THE DISTRICT WHERE CHARGES ARE PENDING as to Benjamin Earnest Nichols. Signed by Magistrate Judge Shon T. Erwin on 07/02/2015. (sm) (Entered: 07/06/2015)
07/02/2015	<u>6</u>	<input type="checkbox"/>	ORDER Setting Conditions of Release as to Benjamin Earnest Nichols. Signed by Magistrate Judge Shon T. Erwin on 07/02/2015. (sm) (Entered: 07/06/2015)
07/02/2015	<u>7</u>	<input type="checkbox"/>	\$10,000 Unsecured Appearance Bond Entered as to Benjamin Earnest Nichols (sm) (Entered: 07/06/2015)

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or

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CRIMINAL COURTROOM MINUTE SHEET

DATE: Jul 2, 2015

INITIAL APPEARANCE on RULE 5

CASE: M-15-257-STE

TIME IN COURT: 20 mins

COURTROOM: 401

MAGISTRATE JUDGE SHON T. ERWIN

COURTROOM DEPUTY SUSAN McKEY

UNITED STATES OF AMERICA vs. BENJAMIN EARNEST NICHOLS

Defendant States true and correct name as: SAME

AGE: _____

Government Cnsl: DON GIFFORD

Defendant Cnsl: TERESA BROWN

U.S. Probation Officer: ANN ALESCH

Public Defender

☒ Defendant Appears, custody of U.S. Marshal with Counsel

Interpreter: N/A

☐ Defendant advised of his / her right of consular notification, _____☒ Defendant informed of his / her right to retain counsel or to request that counsel be appointed if he / she cannot obtain counsel.☒ Dft informed that he / she is not required to make a statement and that any statement made by him / her may be used against him / her.☒ Defendant informed of the ☐ Complaint ☒ Indictment and the charges pending against him / her in the prosecuting district.

Charging District: NORTHERN DISTRICT/TEXAS -- DALLAS DIVISION

Charging District case number: CR-15-227-L

PRELIMINARY / RULE 5

☐ Defendant informed of his/her right to a Preliminary hearing.☐ Defendant waives preliminary hearing; Written waiver entered.☐ Defendant requests the preliminary hearing be conducted in the prosecuting district.☐ Defendant requests the preliminary hearing be conducted in this district☐ Preliminary hearing is set for: _____☐ Preliminary hearing not required.☒ Defendant waives identity hearing; Written waiver entered.☒ Defendant advised of the provisions of Rule 20.☐ Government produces the original warrant, a certified copy of the warrant or a reliable electronic form of either.☒ Defendant waives production of original, certified copy or reliable electronic form of warrant.

RELEASE / DETENTION

☒ Government recommends defendant be released on \$10,000 unsecured bond w/conditions☐ Government recommends defendant be detained based on _____☐ Government _____☐ Upon motion of the Government and request for continuance by _____☐ Detention Hearing is set for _____☐ Defendant requests that the detention issue be held in abeyance until defendant is returned to charging district. The court finds good cause to exceed the time limits set forth by the Bail Reform Act, if necessary, in order to allow the U.S. Marshal sufficient time to transport defendant to the charging district. Defendant remanded to the custody of the U.S. Marshal.

The Court Orders:

☐ The United States Marshal for the Western District of Oklahoma is to remove defendant to the district in which he/she is charged and deliver defendant to the United States Marshal for that district or to some other officer authorized to receive him. Written Order entered.☐ Defendant temporarily detained pending detention hearing. Written Order entered. Defendant remanded to the custody of the U.S. Marshal.☒ Unsecured Bond set at \$10,000 unsecured bond with conditions per Release Order.☐ Secured Bond set at _____ with conditions per Release Order as the Court finds that the release of the Defendant on a personal recognizance bond or unsecured appearance bond would not reasonably assure his / her appearance in court and the safety of the community.☐ Defendant remanded to the custody of the U.S. Marshal.☒ Defendant to report for further proceedings in the District Court in which prosecution is pending as follows:

Northern District of TX/Dallas Division; Mag Judge Paul Stickney; Courtroom #1620 -- Thursday/July 9, 2015 @ 2:00 p.m.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA

VS.

BENJAMIN EARNEST NICHOLS

Defendant

Case Number: M-15-257-STE

Charging District: NORTHERN DISTRICT/TEXAS – DALLAS

Charging District's Case Number: CR-15-227-L

ORDER APPOINTING COUNSEL

The above-named defendant having completed an affidavit as to financial ability to employ counsel, and upon review, the Court finds:

- ☒ That the affiant is financially unable to obtain counsel.
- ☒ Federal Public Defender is appointed to represent the above-named defendant in all further proceedings in this District unless and until relieved by order of the Court. Teresa Brown
- ☐ Federal Public Defender shall forth with furnish the name of a private attorney for appointment to represent the defendant. _____
- ☐ That the defendant is eligible for appointment of counsel, but has income or assets in excess of that needed for support of defendant and dependents, and therefore:
- ☐ Defendant will reimburse the government for the cost of providing representation commensurate with his / her ability to pay as determined by further order of the Court. _____
- ☐ That Defendant is not eligible for appointment of counsel but is entitled to both an immediate hearing and to the assistance of counsel and therefore,
- ☐ The Federal Public Defender is temporarily appointed to represent the defendant for purposes of initial appearance only.

Thursday, July 2, 2015

Date


SHON T. ERWIN
UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA)

VS.)

Case Number: M-15-257-STE

BENJAMIN EARNEST NICHOLS

Defendant

Charging District: NORTHERN DISTRICT/TEXAS -- DALLAS

Charging District's Case Number: CR-15-227-L

ORDER REQUIRING DEFENDANT TO APPEAR IN THE DISTRICT
WHERE CHARGES ARE PENDING

After a hearing in this court, the defendant is released from custody and ordered to appear in the district court where the charges are pending to answer those charges. If the time to appear in that court has not yet been set, the defendant must appear when notified to do so. Otherwise, the time and place to appear in that court are:

PLACE:	Northern District of Texas Earle Cabell Federal Building 1100 Commerce St. Dallas, TX 75242	Courtroom:	Mag. Judge Paul Stickney; Crtrm #1620
		Date and Time:	July 9 th , 2015 @ 2:00 p.m., Thursday

Thursday, July 2, 2015

Date


SHON T. ERWIN
UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA

VS.

Case Number: M-15-257-STE

BENJAMIN EARNEST NICHOLS

Defendant

ORDER SETTING CONDITIONS OF RELEASE

IT IS ORDERED that the defendant's release is subject to these conditions:

- (x) (1) The defendant must not violate any federal, state or local law while on release.
- (x) (2) The defendant must cooperate in the collection of a DNA sample if it is authorized by 42 U.S.C. § 14135a
- (x) (3) The defendant must advise the court or the pretrial services office or supervising officer in writing before making any change of residence or telephone number.
- (x) (4) The defendant must appear in court as required and, if convicted, must surrender as directed to serve a sentence that the court may impose.

The defendant must appear at: Courtroom #1620 [Mag Judge Paul Stickney]
Place

ND/TX, 1100 Commerce St., Dallas, TX on Thursday, 7/9/15 @ 2:00 p.m.
Date and Time

If blank, defendant will be notified of next appearance.

- (x) (5) The defendant must sign an Appearance Bond, if ordered.

ADDITIONAL CONDITIONS OF RELEASE

IT IS FURTHER ORDERED that the defendant's release is subject to the conditions marked below:

() (6) The defendant is placed in the custody of:

Person or organization _____

Address (only if above is an organization) _____

City and state _____

Tel. No. _____

who agrees to (a) supervise the defendant, (b) use every effort to assure the defendant's appearance at all court proceedings, and (c) notify the court immediately if the defendant violates a condition of release or is no longer in the custodian's custody.

Signed: _____

Custodian

Date

(X) (7) The defendant must:

(X) (a) submit to supervision by and report for supervision to: USPO MARISSA RIOS-PROCTERtelephone number (405)609-5806, no later than Noon the following business day.

() (b) continue or actively seek employment.

() (c) continue or start an education program.

() (d) surrender any passport to: the US Probation Office, Western District of Oklahoma no later than noon the following business day.

() (e) not obtain a passport or other international travel document.

(X) (f) abide by the following restrictions on personal association, residence, or travel: Travel restricted to the Western District of Oklahoma unless pre-approved by USPO -- AND THE NORTHERN DISTRICT OF TEXAS FOR COURT PURPOSES

(X) (g) avoid all contact, directly or indirectly, with any person who is or may be a victim or witness in the investigation or prosecution, including: _____

(X) (h) get medical or psychiatric treatment: as directed by USPO.

() (i) return to custody each _____ at _____ o'clock after being released at _____ o'clock for employment, schooling, or the following purposes: _____

() (j) maintain residence at a halfway house or community corrections center, as the pretrial services office or supervising officer considers necessary.

(X) (k) not possess a firearm, destructive device, or other weapon.

(X) (l) not use alcohol () at all (X) excessively.

(X) (m) not use or unlawfully possess a narcotic drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner.

(X) (n) submit to testing for a prohibited substance if required by the pretrial services office or supervising officer. Testing may be used with random frequency and may include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing. The defendant must not obstruct, attempt to obstruct, or tamper with the efficiency and accuracy of prohibited substance screening or testing.

() (o) participate in a program of inpatient or outpatient substance abuse therapy and counseling if directed by the pretrial services office or supervising officer.

() (p) participate in one of the following location restriction programs and comply with its requirements as directed.

() (i) **Curfew.** You are restricted to your residence every day () from _____ to _____, or () as directed by the pretrial services office or supervising officer; or() (ii) **Home Detention.** You are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities approved in advance by the pretrial services office or supervising officer; or() (iii) **Home Incarceration.** You are restricted to 24-hour-a-day lock-down at your residence except for medical necessities and court appearances or other activities specifically approved by the court.

() (q) submit to location monitoring as directed by the pretrial services office or supervising officer and comply with all of the program requirements and instructions provided.

() You must pay all or part of the cost of the program based on your ability to pay as determined by the pretrial services office or supervising officer.

(X) (r) report as soon as possible, to the pretrial services office or supervising officer, every contact with law enforcement personnel, including arrests, questioning, or traffic stops.

(X) (s) contribute to the cost of treatment services rendered (co-payment) in an amount to be determined by the pretrial services office or supervising officer, based on the defendant's ability to pay.

() (t) notify all employers of the pending federal charge when employed in a fiduciary capacity and at the direction of the USPO and grant the USPO permission to verify employers' notification.

() (u) _____

ADVICE OF PENALTIES AND SANCTIONS

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

Violating any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of your release, an order of detention, a forfeiture of any bond, and a prosecution for contempt of court and could result in imprisonment, a fine, or both.

While on release, if you commit a federal felony offense the punishment is an additional prison term of not more than ten years and for a federal misdemeanor offense the punishment is an additional prison term of not more than one year. This sentence will be consecutive (i.e., in addition to) to any other sentence you receive.

It is a crime punishable by up to ten years in prison, and a \$250,000 fine, or both, to: obstruct a criminal investigation; tamper with a witness, victim, or informant; retaliate or attempt to retaliate against a witness, victim, or informant; or intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

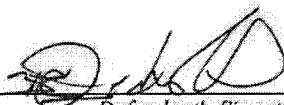
If, after release, you knowingly fail to appear as the conditions of release require, or to surrender to serve a sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more- you will be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years- you will be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony - you will be fined not more than \$250,000 or imprisoned not more than two years, or both;
- (4) a misdemeanor - you will be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender will be consecutive to any other sentence you receive. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgment of the Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and surrender to serve any sentence imposed. I am aware of the penalties and sanctions set forth above.



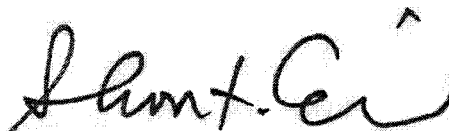
Defendant's Signature

Directions to the United States Marshal

- (☒) The defendant is ORDERED released after processing.
- (☐) The United States Marshal is ORDERED to keep the defendant in custody until notified by the clerk or judge that the defendant has posted bond and/or complied with all other conditions for release. If still in custody, the defendant must be produced before the appropriate judge at the time and place specified.

Thursday, July 2, 2015

Date



Judicial Officer's Signature

SHON T. ERWIN, UNITED STATES MAGISTRATE JUDGE

Printed name and title

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA

VS.

BENJAMIN EARNEST NICHOLS

Defendant

Case Number: M-15-257-STE

APPEARANCE BOND

I, BENJAMIN EARNEST NICHOLS (defendant), agree to follow every order of this court, or any court that considers this case, and I further agree that this bond may be forfeited if I fail:

- (X) to appear for court proceedings;
(X) if convicted, to surrender to serve a sentence that the court may impose; or
(x) to comply with all conditions set forth in the Order Setting Conditions of Release.

Type of Bond

- () (1) This is a personal recognizance bond.
- (x) (2) This is an unsecured bond of \$ \$10,000.
- () (3) This is a secured bond of \$ _____, secured by:
- () (a) \$ _____, in cash deposited with the court.
- () (b) the agreement of the defendant and each surety to forfeit the following cash or other property
(describe the cash or other property, including claims on it – such as a lien, mortgage, or loan – and attach proof of ownership and value):

If this bond is secured by real property, documents to protect the secured interest may be filed of record.

- () (c) a bail bond with a solvent surety (attach a copy of the bail bond, or describe it and identify the surety):

Forfeiture or Release of the Bond

Forfeiture of the Bond. This appearance bond may be forfeited if the defendant does not comply with the above agreement. The court may immediately order the amount of the bond surrendered to the United States, including the security for the bond, if the defendant does not comply with the agreement. At the request of the United States, the court may order a judgment of forfeiture against the defendant and each surety for the entire amount of the bond, including interest and costs.

Release of the Bond. The court may order this appearance bond ended at any time. This bond will be satisfied and the security will be released when either: (1) the defendant is found not guilty on all charges, or (2) the defendant reports to serve a sentence.

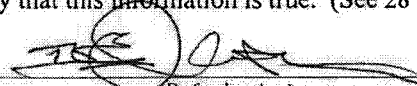
Declarations

Ownership of the Property. I, the defendant – and each surety – declare under penalty of perjury that:

- (1) all owners of the property securing this appearance bond are included on the bond;
- (2) the property is not subject to claims, except as described above; and
- (3) I will not sell the property, allow further claims to be made against it, or do anything to reduce its value while this appearance bond is in effect.

Acceptance. I, the defendant – and each surety – have read this appearance bond and have either read all the conditions of release set by the court or had them explained to me. I agree to this Appearance Bond.

I, the defendant – and each surety – declare under penalty of perjury that this information is true. (See 28 U.S.C. § 1746.) Date: 07/02/2015


Defendant's signature

Surety/property owner— printed name

Surety/property owner— signature and date

Surety/property owner— printed name

Surety/property owner— signature and date

Surety/property owner— printed name

Surety/property owner— signature and date

CLERK OF COURT

Date: 07/02/2015


Signature of Clerk or Deputy Clerk

Approved.

Date: 07/02/2015


Judge's signature